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57-121257
7/10/78

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-121257

DATE: July 3, 1978

MATTER OF: Yellow Freight System, Inc.

DIGEST:

Since carrier offers no evidence to support its claim that it had no operating authority to transport shipment from origin to destination, and since in any case, quantum meruit charges would be equivalent to rate determined by GSA as correct for shipment, settlement action by GSA is sustained. B-190039, January 26, 1973, distinguished.

Yellow Freight System, Inc. (Yellow Freight), in a letter dated February 7, 1978, requests the Comptroller General of the United States to review the General Services Administration's (GSA) action on its bill for transportation charges. See Section 201(3) of the General Accounting Office Act of 1974, 49 U.S.C. 66(b) (Supp. V, 1975). GSA, after auditing the bill, notified Yellow Freight of an overcharge of \$32 which in the absence of refund was collected by deduction. 49 U.S.C. 66(a). Under regulations implementing Section 201(3) of the Act, a deduction action constitutes a reviewable settlement action 4 C.F.R. 53.1(b)(1) and 53.2 (1977) 7; Yellow Freight's letter complies with the criteria for requests for review of that action. 4 C.F.R. 53.3 (1977).

Under Government Bill of Lading (GBL) No. K-3087713, dated August 26, 1975, Yellow Freight transported a shipment described as "FREIGHT ALL KINDS," weighing 13,003 pounds, from Oakland, California to Pueblo Army Depot, Colorado.

Yellow Freight collected freight charges of \$828 on the shipment. Upon audit, GSA determined that Item 1720 of Rocky Mountain Motor Tariff Bureau (RMB) Quotation 19-B (Quotation 19-B) would produce charges of \$796. On this basis, GSA issued a notice of overcharge for \$32. Yellow Freight refused to refund the claimed overcharge, and GSA collected the \$32 from funds otherwise due the carrier. 49 U.S.C. 66(a). Yellow Freight requests review of that action.

In its request for review, Yellow Freight contends that it has no authority to serve Pueblo, Colorado, when shipments originate on the West Coast. To support its view that it may serve Pueblo only when shipments originate East of the Colorado-Kansas border, Yellow Freight has referred us to National Motor Freight Traffic

Association (NMFTA) Tariff S-1, section 112713, pages 42, 43, and 44. We have reviewed this material and find that it contains nothing to establish that Yellow Freight has only an East-West operating authority for this route.

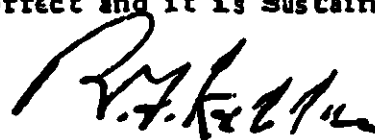
Item 1720 of Quotation 19-B names the rate used by GSA and shows that it applies to shipments transported by Yellow Freight between points in Colorado and points in California via "Route 23." Item 1720 defines route 23 as "Route 23: (YSFY Ca. points - YSFY Co. points) YSFY." "YSFY" is shown in Quotation 19-B as a symbol for Yellow Freight System, Inc. Thus, for the rate shown in item 1720, Yellow Freight has a designated route from California to Colorado.

Quotation 19-B also states that it is governed by U.S. Government Quotation ICC RMB Q20 (Quotation Q20). Tariff ICC RMB 118-D is incorporated by reference into Quotation Q20 and shows that Yellow Freight has authority to serve both Oakland and Pueblo Army Depot. These provisions together indicate that Yellow Freight had authority to ship goods on a route between Oakland and Pueblo Army Depot.

Yellow Freight refers to our decision of January 26, 1978, B-190039, in which GSA agreed that Yellow Freight did not have operating authority to transport a shipment from Point Mugu, California, to North Boulder, Colorado. However, in that case the record showed that Yellow Freight interlined the shipment with a connecting carrier for delivery at destination, a fact not present here.

Assuming that Yellow Freight lacked the authority to serve Pueblo when shipments originate on the West Coast, its exception to the \$32 overcharge still would lack merit. When a carrier transports a shipment for which it does not have operating authority, we apply the principle of quantum meruit, allowing the carrier a reasonable amount for his services. B-178239, B-178563, September 4, 1974. GSA has determined that quantum meruit charges would be equivalent to those shown on its notice of overcharge.

Based on the present record, GSA's settlement action on the shipment moving under GBL K-3087713 is correct and it is sustained.



Deputy Comptroller General
of the United States